IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 12TH DECEMBER 2007 / 21ST AGRAHAYANA 1929

Crl.MC.No. 3684 of 2007()

C.C.NO.961/03 PENDING BEFORE THE JFCM COURT -I, ERNAKULAM

PETITIONER: ACCUSED

GIRIJA, AGED 37 YEARS,W/O. THAMBI,
VI BLOCK, POLICE QUARTERS, MATTANCHERRY VILLAGE
MATTANCHERRY KARA.

BY ADV. SRI.K.V.SABU

RESPONDENTS: COMPLAINANT

STATE OF KERALA REPRESENTED BY
PUBLIC PORSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3684 of 2007

Dated this the 12th day of December 2007

O R D E R

The short grievance of the petitioner is that PW3, a crucial witness in the case could not be cross-examined properly due to inconvenience of the senior counsel. The junior counsel has cross-examined; but not adequately, submits the senior counsel before me. In these circumstances, it is prayed that at whatever cost, a further opportunity to recall PW3 and to cross-examine her may be given to the petitioner failing which the interests of the petitioner would suffer causing considerable embarrassment to the counsel also.

2. I am unable to find anything wrong in the order passed by the learned Magistrate rejecting the prayer; but in the interests of justice, I am satisfied that an indulgent further opportunity can be given to the petitioner to get PW3 recalled and to cross-examine her. For this luxury of a further opportunity, the petitioner and his counsel will certainly have to be put to exceptional costs. I take note of the fact that opportunity was once given for cross-examination. That was not

availed at all. Later, the witness was recalled. Even then, it was not effectively made use of.

3. In the result, this petition is allowed. There shall be a direction to the learned Magistrate to afford a further opportunity to the petitioner to recall PW3 and further cross-examine her on condition that the petitioner deposits an amount of Rs.1,500/- (Rupees one thousand and five hundred only) as cost payable to the said witness on the next date of posting, i.e. 14/12/2007. If the witness is available, she shall be recalled and opportunity shall be given to the petitioner to cross-examine her.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007